

On April 22, 1935, no claimant having appeared for the product seized at Hazleton, Pa., judgments of condemnation were entered and it was ordered that the product be emptied into properly labeled containers and delivered to charitable organizations. On September 17, 1935, claims having been entered for the property seized at New Haven, Conn., judgments of condemnation were entered and it was ordered that the product be released to the claimant under bond conditioned that it be relabeled.

W. R. GREGG, *Acting Secretary of Agriculture.*

24732. Adulteration of tomato puree. U. S. v. 222 Cases of Tomato Puree. Consent decree of condemnation and destruction. (F. & D. no. 34686. Sample no. 25273-B.)

This case involved an interstate shipment of canned tomato puree that contained excessive mold.

On January 3, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 222 cases of canned tomato puree at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September 22, 1934, by the Rush County Packing Co., from Glenwood, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Richelieu Brand Puree of Tomatoes * * * Distributed by Sprague, Warner & Company, Chicago, Ill."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On May 6, 1935, the Rush County Packing Co., the sole intervenor, having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

24733. Adulteration of tomato puree and adulteration and misbranding of tomato paste and tomato catsup. U. S. v. 36 Cases of Tomato Paste, et al. Default decrees of condemnation and destruction. (F. & D. nos. 34989, 35070, 35186, 35296, 35347, 35366, 35523. Sample nos. 14579-B, 14600-B, 14740-B, 23686-B, 26022-B, 26049-B, 29042-B.)

These cases involved tomato products which were adulterated, all lots having been found to contain excessive mold, and one lot being artificially colored. Portions of the products also were misbranded.

On January 25, February 9, February 27, March 23, April 8, and April 12, 1935, the United States attorney for the District of Massachusetts, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 46 cases of tomato paste at Worcester, Mass., 41 cases of tomato puree at Boston, Mass., and 47 cases of tomato catsup and 25 cases of tomato paste at Lawrence, Mass. On May 21, 1935, a libel was filed in the Western District of Pennsylvania against six cases of tomato paste at Washington, Pa. The libels alleged that the articles had been shipped in interstate commerce between the dates of September 26, 1934 and March 21, 1935, by the Brocton Preserving Co., Inc., in part from Brocton, N. Y., and in part from Fredonia, N. Y., and charged that they were adulterated, and that portions of the tomato paste and tomato catsup were also misbranded in violation of the Food and Drugs Act. The articles were labeled, variously: "Fairview Tomato Puree * * * Packed by Brocton Preserving Co. Brocton, N. Y."; "Brocton Brand Tomato Ketchup * * * Guaranteed to be Pure and to Comply with All Food Laws Brocton Preserving Co., Brocton, N. Y."; "Fedora Italian Style Tomato Paste * * * Salsa Pura Di Pomodoro Con Basilico Packed by Brocton Preserving Co. Brocton, New York."

The articles were alleged to be adulterated in that they consisted wholly or in part of a decomposed vegetable substance. A portion of the tomato paste was alleged to be further adulterated in that it was colored in a manner whereby inferiority was concealed.

Misbranding was alleged with respect to portions of the articles in that certain statements in the labeling were false and misleading and tended to deceive and mislead the purchaser, viz. "Guaranteed to be Pure and to Comply With All Food Laws", with respect to a portion of the tomato ketchup, since it was not pure and did not comply with the Federal Food and Drugs Act, "Con Basilico", with respect to a portion of the tomato paste, since it contained no basil; and "Tomato Paste * * * Salsa Pura Di Pomodoro", with respect to a portion of the tomato paste, since it was artificially colored

tomato paste, and the misbranding was not corrected by the inconspicuous vertical declaration "Harmless Color Added", appearing on the side panel.

On April 8, April 22, April 29, May 27, June 3, and June 27, 1935, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

24734. Misbranding of canned mackerel. U. S. v. 200 Cases of Canned Mackerel. Decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 34880. Sample no. 29107-B.)

This case involved canned mackerel which was short weight.

On January 14, 1935, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 200 cases of canned mackerel at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about December 1, 1934, by Cohn-Hopkins, Inc., from San Diego, Calif., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Wood's Quality Brand California Deep Sea Light Meat Mackerel Fillet. Contents 7 Oz. Packed by Cohn-Hopkins, Inc. San Diego, Calif."

The article was alleged to be misbranded in that the statement, "Contents 7 Oz.", appearing on the label, was false and misleading and tended to deceive and mislead the purchaser, and for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On June 12, 1935, the United States Warehouse Co., Detroit, Mich., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be reshipped to Cohn-Hopkins, Inc., for relabeling under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

24735. Adulteration and misbranding of olive oil. U. S. v. 2 Cases, et al., of Alleged Olive Oil. Default decrees of condemnation and destruction. (F. & D. nos. 35051 to 35056, incl., 35130 to 35133, incl. Sample nos. 26001-B, 26002-B, 26004-B.)

These cases involved a product consisting of a vegetable oil other than olive oil, artificially colored and flavored, which was labeled to create the impression that it was pure olive oil.

On February 2 and February 11, 1935, the United States attorney for the District of Massachusetts, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 9 cases and 41 cans of alleged olive oil at Worcester, Mass., and 37 cans of alleged olive oil at Fitchburg, Mass., charging that the article had been shipped in interstate commerce in various shipments on or about December 21, 1934, January 15, and January 16, 1935, by the Italia Importing Co., from Bridgeport, Conn., and that it was adulterated and misbranded in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a vegetable oil other than olive oil had been substituted wholly or in part for olive oil. Adulteration was alleged for the further reason that the article had been colored in a manner whereby inferiority was concealed.

Misbranding was alleged for the reason that the following statements appearing on the label, (main panels) "Pure Olive Oil * * * Italy * * * Philip Berio and C. Lucca Tuscany * * * Olio d'Olive Puro * * * Italia * * * Filippo Berio * * * Lucca Toscana", (side panels) "Prize awarded at the Chicago Exposition 1893 for Pure Olive Oil to Philip Berio and C. of Lucca Onde Proteggere la nostra marca dalle continue contraffazioni ciascuna latta deve portare la nostra firma autentica invece della nostra ditta stampato come per il passato. Ogni contraffattore della nostra marca sara punito a termini di legge. Olio Puro D'Olive della ditta Filippo Berio & C. Di Lucca Premiato All' Esposizione di Chicago 1893 Salvo * * * Lucca Packed in Italy", and (imprinted in ends of can) "Packed in Italy", were false and misleading and tended to deceive and mislead the purchaser, since the article was not Italian olive oil. Misbranding was alleged for the further reasons that the article was an imitation of another article, namely, olive oil;